

\*\*\*\*\*

## EXHIBIT A

\*\*\*\*\*

IN THE COURT OF COMMON PLEAS  
OF NORTHUMBERLAND COUNTY, PENNSYLVANIA

COPY  
FILED

M.W.,  
a minor, BY RYAN WAGNER and  
WHITNEY BROSCIOUS, his parents  
Plaintiffs

vs.

SHIKELLAMY SCHOOL DISTRICT,  
Defendant

IN THE COURT OF COMMON PLEAS 22  
OF NORTHUMBERLAND COUNTY, PA  
NORTH'D CO.  
PROTHONOTARY

CIVIL ACTION - LAW

CV -18-968

JURY TRIAL DEMANDED

---

COMPLAINT

NOTICE TO DEFEND

Pursuant to PA RCP No. 1018.1

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth against you in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a default judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A

LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE  
TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER  
LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Northumberland County Court Administrator  
201 Market Street  
Sunbury, PA 17801  
570-988-4168

IN THE COURT OF COMMON PLEAS  
OF NORTHUMBERLAND COUNTY, PENNSYLVANIA

FILED

M.W.,  
a minor, BY RYAN WAGNER and  
WHITNEY BROSCIOUS, his parents  
Plaintiffs

vs.

SHIKELLAMY SCHOOL DISTRICT,  
Defendant

IN THE COURT OF COMMON PLEAS  
OF NORTHUMBERLAND COUNTY, PA  
NORTH D CO.  
PROTHONOTARY

CIVIL ACTION - LAW

CV-18-968

JURY TRIAL DEMANDED

---

COMPLAINT

1. This is a civil action seeking damages against Defendant for damages for student on student sexual harassment that injured their son and committing acts, under color of law, which deprived Plaintiffs' Minor of rights secured under the Constitution and laws of the United States; and for refusing or neglecting to prevent such deprivations and denials to Plaintiff. The Court has jurisdiction of this action under 42 U.S.C. § 1983 and 28 U.S.C. § 1343 under the concurrent jurisdiction doctrine.

2. The Plaintiffs, Ryan Wagner and Whitney Brosious, are citizens and residents of Pennsylvania residing in Sunbury, Pennsylvania. They are the parents of [REDACTED] ("M.W.") a minor who was born [REDACTED]

3. Defendant is the Shikellamy School District, a Pennsylvania School District with a business office at 200 Island Blvd., Sunbury, PA 17801.

4 The Defendant operates Beck Elementary School in Sunbury, Pennsylvania.

5. In school year 2016-2017, M.W. was a kindergarten student attending Beck Elementary School.

6. In late Spring 2016, on a date to be specifically identified in video records

maintained by Defendant, M. [REDACTED] was sexually accosted by another student while attending gym class. Specifically, this other child told M.W. he would give him a pair of sunglasses if he could pull down M.W.'s pants and lick his penis.

7. The assaulting child proceeded to pull down M.W.'s pants and perform this sexual act on him.

8. This sexual assault occurred in a gym class in which there should have been adult supervision but in which the staff had left the room unattended.

9. Based on statements made by M.W. and his behavior in the Spring of 2016, the Plaintiffs believe and therefore aver, that the sexual harassment and assault of M.W. had been ongoing for some period of time during the school year and that the school staff was aware of the problem but failed to take corrective steps.

10. As a result of this sexual assault, M.W. has suffered pain, suffering, embarrassment, humiliation, disruption of education, and psychological injury.

#### COUNT I

#### TITLE IX, 20 U.S.C. §1681

11. The averments made in Paragraphs 1-10 are incorporated by reference herein.

12. The Defendant, Shikellamy School District receives federal funds under Title IX of the Educational Amendments of 1972, 20 U.S.C. 1681(a), and is prohibited from discriminating against person on the basis of sex.

13. M.W. was the victim of repeated student on student sexual harassment and assault and is considered to be discrimination prohibited by 20 U.S.C. §1681.

14. The sexual harassment suffered by M.W. was severe, pervasive and objectively offensive.

15. The sexual harassment by M.W. created a hostile environment at Beck Elementary School.

16. The student on student sexual harassment constituted discrimination based on sex.

17. The student on student sexual harassment deprived M.W. of educational opportunities.

18. The staff and administration of the Shikellamy School District had constructive and actual knowledge of the ongoing pattern of sexual harassment.

19. The staff and administration of the Shikellamy School District was deliberately indefinite to the ongoing sexual harassment suffered by M.W.

20. The Shikellamy School District's response to the harassment and assault on M.W. was unreasonable for the following reasons:

- a. The Defendant lacked effective policies to prevent and prohibit student on student sexual harassment in younger grades;
- b. The Defendant lacked effective policies for the handling of student on student sexual harassment in younger grades;
- c. The Defendant permitted student to be unsupervised by adults for a time sufficient for a sexual assault to occur;
- d. The Defendant permitted the perpetrator to be unsupervised around other children.

21. As a result of the deliberate indifference of the Defendant, the Plaintiffs' minor has suffered pain, suffering, embarrassment, humiliation, disruption of education, and psychological injury

WHEREFORE, Plaintiff respectfully requests that this Honorable Court to enter judgement in his favor against Defendant in an amount in excess of \$50,000.00 , together with costs, attorneys fees, and punitive damages as the Court may deem appropriate.

#### COUNT II

#### 42 USC §1983

22. The averments made in Paragraphs 1-21 are incorporated by reference herein.

23. Under 42 U.S.C. §1983, one whose guaranteed federal rights are violated may assert legal actions against individuals acting under color of law for violation of those rights.

24. 20 U.S.C. §1681(a) (Title IX) prohibits all forms of sex discrimination, including student on student sexual harassment in schools that receive federal funds.

25. The prohibition of 20 U.S.C. §1681(a) applies to Defendant pursuant to the due process and equal protection clauses of the Fourteenth Amendment to the United States Constitution.

26. The actions and nonactions of the employees and agents of the Defendant at the Beck Elementary School deprived M.W. of his right to be free from discrimination by student on student sexual harassment.

27. The student on student sexual harassment suffered by M.W. was the result of

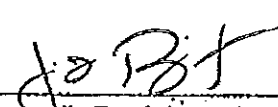
a practice, pattern and custom of Shikellamy School District which include but are not

limited to:

- a. The Defendant lacked effective policies to prevent and prohibit student on student sexual harassment in younger grades;
- b. The Defendant lacked effective policies for the handling of student on student sexual harassment in younger grades;
- c. The Defendant permitted student to be unsupervised by adults for a time sufficient for a sexual assault to occur;
- d. The Defendant permitted the perpetrator to be unsupervised around other children.

28. As a result of the failure of the Defendant to protect the right of M.W. to be free from student on student sexual harassment, the Plaintiffs' minor has suffered pain, suffering, embarrassment, humiliation, disruption of education, and psychological injury

WHEREFORE, Plaintiff respectfully requests that this Honorable Court to enter judgement in his favor against Defendant in an amount in excess of \$50,000.00 , together with costs, attorneys fees, and punitive damages as the Court may deem appropriate.

  
James L. Best, Esquire  
ID# 62069  
3 North Second Street  
Sunbury, PA 17801  
Phone: (570) 863-0102  
Fax: (570) 241-0633  
Attorney for the Plaintiff

DATE: 12/24/19



CERTIFICATE OF SERVICE

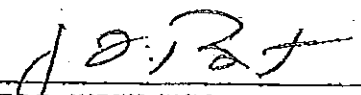
FILED

The undersigned certifies that a true and correct copy of the foregoing Complaint on the Defendant by mailing a copy to its attorney of record, first class, prepaid postage, at the following address:

DEC 26 AM 10:22  
NORTH CO.  
PROTHONOTARY

Richard A. Polacheck, Esq.  
The Polacheck Law Firm  
Suite 600  
22 East Union Street  
Wilkes-Barre, PA 18701

Date: 12/26/19

  
JAMES L. BEST, ESQ  
I.D. # 62069  
8 North Second Street  
Sunbury, PA 17801  
570-863-0102  
Attorney for Plaintiff

CERTIFICATE OF COMPLIANCE

FILED

I certify that this filing complies with the provisions of the UNIFIED JUDICIAL SYSTEM ACCESS  
*Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information  
and documents differently than non-confidential information and documents.

Submitted by: \_\_\_\_\_

Signature: J. D. B. J.

Name: James C. B. J.

Attorney No. (if applicable): 62065

**CONFIDENTIAL  
INFORMATION  
FORM**



*Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*

204 Pa. Code § 213.81

[www.pacourts.us/public-records](http://www.pacourts.us/public-records)

MW, a minor  
(Party name as displayed in case caption)

CV-18-1968  
Docket/Case No.

Vs.

Shilley Schenck Dist. Ct.  
(Party name as displayed in case caption)

Northampton County  
Court

This form is associated with the pleading titled Complaint, dated 12-26-19

Pursuant to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*, the Confidential Information Form shall accompany a filing where confidential information is required by law, ordered by the court, or otherwise necessary to effect the disposition of a matter. This form, and any additional pages, shall remain confidential, except that it shall be available to the parties, counsel of record, the court, and the custodian. This form, and any additional pages, must be served on all unrepresented parties and counsel of record.

This Information Pertains to:	Confidential Information:	References in Filing:
(full name of adult)	Social Security Number (SSN):	Alternative Reference: SSN 1
OR	Financial Account Number (FAN):	Alternative Reference: FAN 1
This information pertains to a minor with the initials of <u>MW</u> and the full name of <u>[REDACTED]</u>	Driver License Number (DLN):	Alternative Reference: DLN 1
(full name of minor)	State of Issuance:	
and date of birth: <u>[REDACTED]</u>	State Identification Number (SID):	Alternative Reference: SID 1
(full name of adult)	Social Security Number (SSN):	Alternative Reference: SSN 2
OR	Financial Account Number (FAN):	Alternative Reference: FAN 2
This information pertains to a minor with the initials of <u>[REDACTED]</u> and the full name of <u>[REDACTED]</u>	Driver License Number (DLN):	Alternative Reference: DLN 2
(full name of minor)	State of Issuance:	
and date of birth: <u>[REDACTED]</u>	State Identification Number (SID):	Alternative Reference: SID 2

**CONFIDENTIAL**  
**INFORMATION**  
**FORM**



Additional page(s) attached, \_\_\_\_\_ total pages are attached to this filing.

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

X-2 RJA  
 Signature of Attorney or Unrepresented Party

12-26-15  
 Date

Name: James L RJA

Attorney Number: (If applicable) 62065

Address: 3020 St

Telephone: 570 863-0162

Subj PA 17501

Email: \_\_\_\_\_

**NOTE:** Parties and attorney of record in a case will have access to this Confidential Information Form. Confidentiality of this information must be maintained.